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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,314	01/16/2002	Jean-Yves Vion-Dury	111171	2810
25944	7590	07/13/2006	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			WALSH, JOHN B	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/046,314	<b>Applicant(s)</b> VION-DURY ET AL.	
	<b>Examiner</b> John B. Walsh	<b>Art Unit</b> 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. This response is to the amendment filed on April 20<sup>th</sup>, 2006. Claims 1-18 are presented for the further examination.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 16, 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The disclosure fails to support the first programming language being different from the second programming language. The disclosure support "The first code structure is constructed from a plurality of first programming language code structure elements and the second code structure is constructed from a plurality of second programming language code structure elements, where each second structure elements corresponds to one of the first structure elements." There is no support that shows in disclosure that these two programming language being different from each other.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claims raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C 101.

Claims 1-15 recite a method that do not require the use of hardware to accomplish the steps and are therefore non-statutory subject matter since they are not tangible and the claimed invention lacks patentable utility. Claims 1-15 recite a method that failed to produce a real-world result and failed to assured repeatable result without use of hardware to accomplish the steps. According to PTO's interim guidelines for examination under 35.U.S.C 101, a method claim must produce a real world result to satisfy concrete, useful, and tangible result.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,487,566 to Sundaresan

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As best understood concerning claim 16, a storage medium (column 6, line 10) storing a set of program instructions executable on a data processing device and useable for determining whether a computer-storable expression matches a filter (abstract), the instructions comprising: evaluating a first code structure representing the expression for determining a value of said expression (figure 3; abstract, line 6); analyzing a second code structure representing the filter for determining the characteristics of the filter (figure 3; abstract, line 6) ; and filtering (figure 3) said value according to the filter characteristics; wherein said first code structure is constructed from a plurality of first programming language (column 3, line 8, XML) code structure elements and said second code structure is constructed from a plurality of second programming language code (second language can be the same as the first language code; column 3, line 8, XML; column 6, line 2, Java) structure elements; each second structure element corresponding to one of said first structure elements (figure 3; match, yes).

As concerns claim 17, a system for determining whether a computer storable expression matches a filter, the system comprising: a memory (column 6, line 10) for storing the expression;

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and a processor (column 2, line 41; 112) for evaluating a first code structure representing the expression for determining a value of said expression (figure 3; abstract, line 6), analyzing a second code structure representing the filter for determining the characteristics of the filter (figure 3; abstract, line 6), and filtering (figure 3) said value according to the filter characteristics; wherein said first code structure is constructed from a plurality of first programming language (column 3, line 8, XML) code structure elements and said second code structure is constructed from a plurality of second programming language code (second language can be the same as the first language code; column 3, line 8, XML; column 6, line 2, Java) structure elements; each second structure element corresponding to one of said first structure elements (figure 3; match, yes).

### ***Response to Arguments***

8. Applicant's arguments filed April 20<sup>th</sup>, 2006 have been fully considered but they are not persuasive.

As per arguments filed on April 20<sup>th</sup>, 2006, the applicant's argue in substance that:

- a. Sundaresan fails to disclose the first programming language being different from the second programming language.

In response to applicant argument a), Sundaresan discloses the first programming language [XML rules; XML] being different from the second programming [Java Class; Java] language (see column 6, line 1-67, examiner interprets XML rule specification, Java class specification and utilizing pattern matching language [PML] to match and

replace functions for transforming any XML or Java instance to their respective XML or Java form).

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on 5:30am-4:00pm M-W.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Zarni Maung', is written over a horizontal line.

**ZARNI MAUNG**  
SUPERVISORY PATENT EXAMINER